

HOUSE BILL 2973
By Bowers

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 3, Part 6; Title 39, Chapter 13, Part 1 and Title 40, Chapter 35, Part 3, relative to domestic abuse, orders of protection and violations of such orders.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 36, Chapter 3, Part 6, is amended by adding a new section:

Section 36-3-625.

(a) A person commits the offense of violation of a domestic violence order who knowingly violates an order of protection issued pursuant to this part or a restraining order involving a party who is a victim as defined in § 36-3-601(8).

(b) Violation of a domestic violence order is a Class A misdemeanor. Any sentence imposed for violation of this section shall be served day for day in continuous confinement, without eligibility for work release or other programs. If a violation of this act also constitutes a separate criminal offense, then the sentence for violation of this section shall be served consecutively to the sentence for that separate criminal offense based upon the same facts, in whole or in part, as the violation of the order of protection or restraining order.

SECTION 2. Tennessee Code Annotated, Section 40-35-303, is amended by designating the existing language of subsection (c) as (c)(1) and by adding the following new (c)(2):

(2) Notwithstanding any other provision of law to the contrary, if probation is to be granted for a misdemeanor offense where the victim is a person identified in § 36-3-601(8), the period of supervision shall be for a period of two (2) years.

SECTION 3. Tennessee Code Annotated, Section 36-3-606, is amended by adding the following language as subsection (a) and relettering the existing subsections accordingly:

(a) An ex parte order of protection granted under this part to protect the petitioner from domestic abuse may include, but is not limited to:

(1) Directing the respondent to refrain from committing domestic abuse or threatening to commit domestic abuse against the petitioner or the petitioner's minor children;

(2) Prohibiting the respondent from telephoning, contacting, or otherwise communicating with the petitioner, directly or indirectly;

(3) Prohibiting the respondent from stalking the petitioner, as defined in § 39-17-315;

(4) Granting to the petitioner temporary possession of the shared residence or household to the exclusion of the respondent by immediate eviction of the respondent at the time of service of notice of these proceedings, or by restoration of possession to the petitioner, or by both. Such eviction of the respondent or restoration of possession to the petitioner shall be:

(A) Only done upon a showing of immediate need and/or danger to the petitioner;

(B) Limited in duration to four (4) calendar days; and

(C) Subject to change upon a hearing in the cause upon the merits of this case.

Such temporary relief is considered to be extraordinary, and is to be clearly noted on the ex parte order by the issuing judge or judicial commissioner as to whether the respondent should be evicted or the petitioner restored to possession of the shared residence. Any such provision of an ex parte order shall not affect title to real property or infer that one person has a greater interest in any shared leasehold property. A petitioner must either be:

(A) A joint owner of such shared property;

(B) Be married to the owner or leaseholder of such shared property; or

(C) Also be on the lease as a tenant of such shared property before any such relief can be provided under this section.

SECTION 4. This act shall take effect July 1, 2004, the public welfare requiring it.